

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

LINDA SCHULTZ,

Plaintiff,

v.

STATE OF WISCONSIN,

Defendant.

ORDER

09-cv-274-slc¹

Plaintiff Linda Schultz has filed an amended complaint in which she substitutes the Department of Workforce Development for the state of Wisconsin as the defendant and includes additional factual details regarding her claim for equal pay under the Fair Labor Standards Act. I construe the substitution as a motion to voluntarily dismiss the state from the case under Fed. R. Civ. P. 41 and for leave to amend the complaint under Fed. R. Civ. P. 15. I will grant the motion.

Plaintiff's amended complaint moots the pending motion to dismiss. Massey v.

¹ Because consents to the magistrate judge's jurisdiction have not yet been filed by all the parties to this action, I am assuming jurisdiction over the case for the purpose of this order.

Helman, 196 F.3d 727, 735 (7th Cir. 1999). Further, because plaintiff has substituted one party for another, the scheduling conference set for June 24 is now premature. Accordingly, I will deny defendant's motion to dismiss as moot and cancel the June 24 conference. Once plaintiff has served the Department of Workforce Development with her complaint and it files an answer, the clerk of court will set a new date for the scheduling conference.

ORDER

IT IS ORDERED that defendant State of Wisconsin's motion to dismiss, dkt. #5, is DENIED as moot. Defendant Wisconsin is DISMISSED from the case under Fed. R. Civ. P. 41 and plaintiff Linda Schultz's motion for leave to amend her complaint is GRANTED and the amended complaint, dkt. #14, is ACCEPTED as the operative pleading. The June 24 scheduling conference is CANCELED.

Entered this 18th day of June, 2009.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge